

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

Appeal Filed: 1/8/2004  
Applic. Filed: 1/28/2004  
180th Day: 7/26/2004  
Staff: CP-LB  
Staff Report: 3/25/2004  
Hearing Date: April 14, 2004  
Commission Action:



# W9g

**STAFF REPORT: DE NOVO & REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-04-028      **APPEAL NUMBER:** A5-VEN-04-009

**APPLICANT:** Venice Lofts, LLC (Attn: Ken Ayeroff)      **AGENT:** Clare Bronowski

**APPELLANTS:** Coastal Commission Executive Director Peter Douglas, Joyce Haskell, Hortense Breitman and Steve Schlein

**PROJECT LOCATION:** 619 Ocean Front Walk, Venice, City of Los Angeles, Los Angeles Co.

**PROJECT DESCRIPTION:** Construction of a 35-foot high mixed-use structure with four live/work residential condominium units, one 900 square foot commercial condominium, and a 37-stall parking garage on a 12,803 square foot site currently being used as a parking lot (Vesting Tentative Tract No. 53772).

Lot Area	12,803 square feet
Building Coverage	10,798 square feet
Pavement Coverage	1,047 square feet
Landscape Coverage	958 square feet
Parking Spaces	37
Zoning	C1-1 Commercial
Plan Designation	Community Commercial
Building Height	30'-35' roof (with four 38' roof access structures)

**LOCAL APPROVALS:** City of Los Angeles Local Coastal Development Permit No. 2002-2546, Vesting Tentative Tract No. 53772, Conditional Use Permit & Venice Specific Plan Project Permit.

**SUMMARY OF STAFF RECOMMENDATION**

The proposed project is located in an area with insufficient parking facilities to serve its exiting uses. Although this development would remove a large pay parking lot, the owner has no legal obligation to maintain the site as a parking lot. The proposed project would provide adequate parking for the proposed uses and would have surplus parking that could be leased to the public. Staff is recommending that the Commission **APPROVE** a de novo permit (A5-VEN-04-009) and a coastal development permit (5-04-028) for the proposed development with special conditions. The recommended special conditions would: a) make the approval of the proposed project contingent upon the provision of the proposed mix of retail commercial, residential and parking uses; b) require the structure, including the proposed second floor balconies, to be set back at least 7'8" from the Thornton Avenue right-of-way; c) limit the building height to 35 feet above the Ocean Front Walk elevation, with the portion closest to Thornton Avenue limited to thirty feet; d) require that the project's Thornton Avenue frontage be designed and landscaped in conformance with the walk street standards set forth by the City of Los Angeles certified Land Use Plan (LUP) for Venice; e) limit signage; and f) require the applicant to provide, for the Executive Director's approval, a final parking plan, construction staging plan and construction best management practices plan. The applicant agrees with the staff recommendation. **See Page Two for the motions to carry out the staff recommendation.** The recommended special conditions begin on Page Three.

**STAFF NOTE:** The proposed project is located on the inland side of the Venice Boardwalk (Ocean Front Walk) within three hundred feet of the beach (See Exhibits). Therefore, it is within the coastal zone area of the City of Los Angeles which has been designated in the City's permit program as the "Dual Permit Jurisdiction" area. Pursuant to Section 30601 of the Coastal Act and Section 13307 of Title 14 of the California Code of Regulations, any development located in the Dual Permit Jurisdiction that receives a local coastal development permit from the City must also obtain a permit from the Coastal Commission. The City-approved local coastal development permit for the proposed project was appealed to the Commission on January 8, 2004 (Appeal No. A5-VEN-04-009). On February 18, 2004, the Commission determined that a Substantial Issue exists with the proposed project's land use, setbacks, design, displacement of parking, and height (the 35-foot high project exceeds the 28-foot height limit for development along walk streets as set forth in the Venice LUP). In order to minimize duplication, Commission staff has combined the de novo appeal permit (A5-VEN-04-009) and dual coastal development permit application (5-04-028) into one staff report and one Commission hearing. Because there are two permits involved, the Commission's approval, modification or disapproval of the proposed project will require two separate Commission actions: one action for the de novo appeal permit and one action for the dual coastal development permit application.

**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Los Angeles certified Land Use Plan for Venice, 6/14/01.
2. City of Los Angeles Specific Plan for Venice, Ordinance No. 172,897, 12/22/1999.
3. City of Los Angeles Specific Plan for Venice, Ordinance No. 175,693, 12/9/2003.
4. City of Los Angeles Local Coastal Development Permit No. 2002-2526 (701 OFW).
5. City of Los Angeles Local Coastal Development Permit No. 2002-2546 (619 OFW).
6. City of Los Angeles Mitigated Negative Declaration No. 2002-2547 MND.
7. Coastal Development Permit Application No. 5-04-027 (Venice Lofts, LLC – 701 OFW).

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the coastal development permits with special conditions:

**MOTION I:** *"I move that the Commission approve with special conditions Coastal Development Permit A5-VEN-04-009 per the staff recommendation as set forth below."*

**MOTION II:** *"I move that the Commission approve with special conditions Coastal Development Permit 5-04-028 per the staff recommendation as set forth below."*

The staff recommends two **YES** votes. Passage of the motions will result in **APPROVAL** of the de novo permit (A5-VEN-04-009) and dual coastal development permit application (5-04-028) with identical special conditions, and adoption of the following resolutions and findings. Each motion passes only by an affirmative vote of a majority of Commissioners present.

**I. Resolution: Approval with Conditions of A5-VEN-04-009**

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation

measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## **II. Resolution: Approval with Conditions of 5-04-028**

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## **III. Standard Conditions of Coastal Development Permits A5-VEN-04-009 & 5-04-028**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## **IV. Special Conditions of Coastal Development Permits A5-VEN-04-009 & 5-04-028**

### **1. Permitted Uses**

This coastal development permit authorizes the construction of a 35-foot high mixed-use structure with four live/work residential condominium units, 900 square foot of commercial retail space with storefront(s) facing Ocean Front Walk (within one commercial condominium unit), a two-level 37-stall parking garage, and landscaping on the abutting Thornton Avenue walk street right-of-way. This coastal development permit does not authorize any sit-down restaurant use. Any proposed change in use, change in commercial floor area, change in number of residential units, change in number of parking stalls, use of the parking to satisfy the parking requirements of new development or future commercial intensification, or any other deviation from the approved

development, shall be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Executive Director determines that an amendment is necessary, no changes shall be made until a permit amendment is approved by the Commission and issued by the Executive Director.

2. Thornton Avenue Walk Street – Setback and Design Requirements

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit revised project plans for the review and approval of the Executive Director. The revised plans shall comply with the following requirements:

- (a) Building Setback. In order to maintain an open and visible access corridor and to enhance visual quality, all balconies and other portions of the structure (except for ground level decks and porches that do not exceed 18 inches in height above the elevation of the walk street sidewalk) shall be set back at least seven feet and eight inches (7'8") from the Thornton Avenue right-of-way. No balconies or other building extensions over 18 inches in height shall encroach into the 7'8" Thornton Avenue setback area.
- (b) Building Design. In order to enhance visual quality and community character, the side of the building facing the Thornton Avenue walk street shall be designed and constructed with a varied and articulated façade that provides visual interest to pedestrians. Frequent windows and the primary ground floor entrances for the residential units shall face the walk street. Porches, bays and balconies, consistent with the setback and height requirements of part (a) above, are encouraged.
- (c) Building Height. In order to enhance visual quality and community character, the portion of the structure within 25 feet of the Thornton Avenue right-of-way, including roof access structures, skylights and mechanical equipment, shall not exceed thirty feet (30') in height as measured above the elevation of Ocean Front Walk (42" roof deck railings excepted). The portion of the approved structure located further than 25 feet from the Thornton Avenue right-of-way, including all skylights, roof deck railings and mechanical enclosures, shall not exceed a maximum height of thirty-five (35') feet as measured above the elevation of Ocean Front Walk, except that four roof access structures (with each footprint not exceeding one hundred square feet in area) are permitted to reach a maximum height of 38 feet as measured above the elevation of Ocean Front Walk.
- (d) Landscaping. In order to enhance visual quality and to preserve the water quality, the Thornton Avenue setback area required by part (a) above shall be maintained as a permeable yard area (except for minimal paved walks to the building entrances) landscaped with low water use plants.
- (e) Thornton Avenue Right-of-Way. In order to enhance visual quality, prevent vehicular access, and to provide a transitional zone between the Thornton Avenue public sidewalk and the private dwellings, the area situated between a ten-foot wide Thornton Avenue sidewalk and the permittee's property line (i.e., within the Thornton Avenue right-of-way) shall be maintained as a permeable yard area (except for minimal paved walks to the building entrances) landscaped with low water use plants and enclosed within a 42-inch high decorative fence (e.g. split rail, picket or rustic). The permittee and the proposed development shall not interfere with public pedestrian access to and along the ten-foot wide public sidewalk that runs down the center of the Thornton Avenue right-of-way.

The permittee shall undertake and maintain the development in conformance with the approved final plans. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Parking Plan

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a final parking plan for the review and approval of the Executive Director. The final parking plan shall include a parking garage plan, a narrative describing the parking garage management operations, and a signage plan that complies with all of the following requirements:

- (a) Residential Parking. At least two on-site parking spaces shall be identified and reserved to serve the occupants of each residential unit (8 spaces). In addition, at least two on-site parking spaces for guests of the residents shall be identified and reserved as guest parking spaces. Signs shall be posted on each parking stall to reserve the required resident and guest parking spaces for the occupants and their guests.
- (b) Commercial Parking. At least four on-site parking spaces shall be identified and reserved to serve the employees and customers of the commercial retail space. Signs shall be posted on each parking stall to identify the required commercial parking spaces, which shall be available for use by employees and customers during normal business hours (7 a.m. to 8 p.m. daily). Signs shall also be posted at the entrance of the parking garage to clearly announce the availability of the parking for customers of the commercial retail space. Prices for use of the on-site parking shall also be posted.
- (c) Beach Impact Zone (BIZ) Parking. One on-site parking space shall be identified and reserved to serve the general public on an hourly or daily basis. Signs shall be posted on each parking stall to identify the required BIZ parking space, which shall be available for use by the general public during normal business hours (7 a.m. to 8 p.m. daily).
- (d) Surplus Parking. Any on-site parking spaces provided over and above the number of spaces required by parts (a), (b) and (c) of this condition are deemed surplus parking spaces and shall be identified as such on the parking plan. The permittee is permitted to rent or lease the surplus spaces for public or private use, however, use of the on-site parking to satisfy the parking requirements of new on-site or off-site development or future commercial intensification shall not occur unless authorized by a coastal development permit or amendment to this permit, unless the Executive Director determines that no permit or amendment is required.
- (e) Loading Area. An on-site loading area, at least 400 square feet in area, shall be provided.
- (f) Vehicular Access. Vehicular access to the on-site parking and loading areas shall be taken only from Speedway Alley. No vehicular access is permitted from Thornton Avenue or Ocean Front Walk.

The permittee shall undertake and maintain the development in conformance with the approved final parking plan. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No

changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Encroachments

Ocean Front Walk and the ten-foot wide Thornton Avenue sidewalk shall be maintained as public pedestrian accessways. There shall be no encroachment onto or over any portion of Ocean Front Walk or the ten-foot wide Thornton Avenue sidewalk by the applicant, residents, leaseholders, operators or other occupants of the approved structure. Prohibited encroachments include, but are not limited to: tables, signs, displays and merchandise racks.

5. Signage

All signs on the approved structure shall be limited to twenty square feet in area. There shall be no more than one sign larger than ten square feet in area for each commercial establishment in the building. No sign shall exceed the height of the nearest roofline. No sign shall rotate or flash.

6. Construction Staging Plan

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, a Construction Staging Plan that identifies the project staging area(s) to be used during construction of the approved development. The construction staging plan shall include a site plan that depicts the limits of the construction site and staging area(s), construction corridors, and the location of fencing and temporary job trailers. No portion of the beach or the Ocean Front Walk right-of-way shall be used for construction staging activities. The permittee shall undertake the development in conformance with the approved Construction Staging Plan. Any proposed changes to the approved Construction Staging Plan shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. Protection of Water Quality – During Construction

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, a Construction Best Management Practices Plan for the project site, prepared by a licensed professional, and shall incorporate erosion, sediment, and chemical control Best Management Practices (BMPs) designed to minimize to the maximum extent practicable the adverse impacts associated with construction to receiving waters. The plan shall include the following requirements:

- (i) No construction materials, debris, or waste shall be placed or stored in a manner where it may be subject to wave, wind, rain, or tidal erosion and dispersion. All trash generated on the construction site shall be properly disposed of at the end of each construction day.
- (ii) Any and all debris and excess soil or sand resulting from excavation and construction activities shall be removed from the project site within 72 hours of completion of excavation or construction. Excavation and construction debris and sediment shall be removed or contained and secured from work areas each day that excavation and construction occurs to prevent the accumulation of sediment and other debris that could be discharged into coastal waters. All excavation and construction debris and other

waste materials removed from the project site shall be disposed of or recycled in compliance with all local, state and federal regulations. No debris shall be placed in coastal waters. If a disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

- (iii) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction and demolition activities. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and the Pacific Ocean.
- (iv) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and kept as far away from storm drain inlets and receiving waters as possible.
- (v) During excavation and construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any street or drain that discharges into the beach or ocean, unless such discharge specifically authorized by the California Regional Water Quality Control Board.
- (vi) In the event that lead-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

B. The required Construction Best Management Practices Plan for the project site shall also include the following BMPs designed to prevent spillage and/or runoff of construction and demolition-related materials, sediment, or contaminants associated with construction activity. The applicant shall:

- (i) Develop and implement spill prevention and control measures and shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible.
- (ii) Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters, and more than fifty feet away from a storm drain, open ditch or surface waters.
- (iii) Provide and maintain adequate disposal facilities for solid waste, including excess concrete, produced during construction.
- (iv) Provide and maintain temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, wind barriers such as solid board fence, snow fences, or hay bales and silt fencing.
- (v) Stabilize any stockpiled fill with geofabric covers or other appropriate cover, and close and stabilize open trenches as soon as possible.

- (vi) Implement the approved Construction Best Management Practices Plan on the project sites prior to and concurrent with the excavation and construction operations. The BMPs shall be maintained throughout the development process.

C. The Construction Best Management Practices Plan approved by the Executive Director pursuant to this condition shall be attached to all final construction plans. The permittee shall undertake the approved development in accordance with the approved Construction Best Management Practices Plan. Any proposed changes to the approved Construction Best Management Practices Plan shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

8. Local Government Approval

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act, including the conditions of the City of Los Angeles Vesting Tentative Tract No. 53772, and Conditional Use Permit and Venice Specific Plan Project Permit Case No. 2002-2546. In the event of conflict between the terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of Coastal Development Permits A5-VEN-04-009 and 5-04-028 shall prevail.

9. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

10. Deed Restriction

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel governed by this coastal development permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either this coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**V. Findings and Declarations for Coastal Development Permits A5-VEN-04-009 & 5-04-028**

The Commission hereby finds and declares:

**A. Project Description**

The proposed project is a 35-foot high mixed-use (retail, residential and parking) building that would be built at the corner of Ocean Front Walk (the Venice boardwalk) and Thornton Avenue in North Venice (Exhibit #3). The project site is currently paved and used as a pay parking lot that provides hourly, daily, nightly and monthly parking to beach goers and area residents (about forty spaces). Thornton Avenue is a walk street (closed to vehicular use) that provides direct pedestrian access between the residential neighborhoods along Pacific Avenue and the Venice boardwalk (Ocean Front Walk) and the public beach. Ocean Front Walk is a paved public walkway that separates the public beach from the private commercial and residential properties situated immediately inland of the boardwalk (Exhibit #3). The surrounding area is developed with a variety of residential uses and visitor-serving commercial uses that cater to local residents and the thousands of coastal visitors who are attracted to Venice Beach. Venice Beach is one of the most visited recreation areas on the coast of California drawing crowds in excess of seven million visitors each year.<sup>1</sup>

The proposed mixed-use building includes four joint living and working condominium units, one 900 square foot commercial retail space facing the boardwalk, and a two-level, 37-stall parking garage<sup>2</sup> (Exhibits #4-7). The 900 square feet of commercial retail space could be divided and leased into smaller vending units, with the storefronts facing the boardwalk. Each residential condominium unit would have a thirty-foot high private roof deck (with 42" railings) and a 38-foot high private roof access structure (Exhibit #5). A varied roofline, on the rear portion of the building (i.e. the part furthest from the boardwalk, would reach 35 feet in height above the elevation of Ocean Front Walk (Exhibit #6).

The proposed project has a two-level parking garage, with access taken from Speedway Alley. As proposed, the lower subterranean level of the parking garage would provide two or three parking spaces for each live/work residential unit, parking for guests of the occupants, plus surplus parking that would be owned and managed by the residential condominium association. The on-grade level of the proposed parking garage would provide the necessary parking for the proposed commercial retail space, plus surplus parking that the permittee could lease to the public for daytime and nighttime parking.

**B. Project Background**

The Commission has recognized in both prior permit and appeal decisions that the North Venice area, where the proposed project is located, is a unique coastal community. In 1980, the Commission adopted the Regional Interpretive Guidelines for Los Angeles County which included specific building standards for the various Venice neighborhoods, including the North Venice neighborhood. These building standards, which apply primarily to density, building height and parking, reflect conditions imposed in a series of permits heard prior to 1980. The Commission has consistently applied these density, height and parking standards to development in the Venice coastal zone in order to protect public access to the beach and to preserve community character. The Regional Interpretive Guidelines for Los Angeles County contain a thirty-foot height limit for development in the North Venice area. The Interpretive Guidelines also state that the Venice walk streets shall be preserved as walk streets.

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<sup>1</sup> Los Angeles County Dept. of Beaches & Harbors, 1993.

<sup>2</sup> The applicant has provided conflicting information in regards to the number of parking spaces that would be provided within the proposed two-level garage. The project plans submitted with application 5-04-028 show 37 parking stalls: 21 in the lower garage level and 16 in the upper level of the garage.

On October 29, 1999, the Los Angeles City Council adopted a proposed Land Use Plan (LUP) for Venice and submitted it for Commission certification as part of the City's effort to develop a certified Local Coastal Program (LCP) for Venice. As part of that effort, the City also adopted the Venice Specific Plan in 1999. On November 14, 2000, the Commission approved the City's proposed LUP for Venice with suggested modifications. On March 28, 2001, the Los Angeles City Council accepted the Commission's suggested modifications and adopted the Venice LUP as the Commission on November 14, 2000 approved it. The Commission officially certified the Venice LUP on June 14, 2001. The Venice Specific Plan has not been certified.

The policies and building standards contained in the certified Venice LUP reflect the Commission's prior actions in the area, the Commission's 1980 Interpretive Guidelines, and the existing unique character of each Venice neighborhood. The certified Venice LUP, however, also contains some updated and revised building standards for the various Venice neighborhoods, including the North Venice neighborhood where the proposed project is located.

One change proposed by the City and adopted as part of the certified Venice LUP was the deletion of the Interpretive Guideline's prohibition on residential projects on commercially zoned lots facing the boardwalk. Instead, the certified Venice LUP encourages projects that provide a mix of residential and commercial uses along the boardwalk, with the commercial uses on the ground floor. Another change proposed by the City and finally adopted as part of the certified Venice LUP was the lowering of the height limit to 28 feet for all new development situated along the historic Venice walk streets. Formerly, the height limit for development on the walk streets was the same as the general height limit for each Venice neighborhood. In the North Venice area, the general height limit before the adoption of the certified LUP was thirty feet, as set forth by the Interpretive Guidelines. The certified LUP height limit for the North Venice area is now 30-to-35 feet, except for buildings along walk streets where the height limit is 28 feet (Exhibit #2). The 35-foot limit is allowed only when the structure has a varied or sloped roofline.

The Venice Specific Plan, which the Commission has not certified, sets forth the same height limits as the certified Venice LUP. This project, because of its location on the corner of a historic Venice walk street (Thornton Avenue) and the boardwalk (Ocean Front Walk), presented the City with a height limit dilemma: Should the general 30-to-35-foot height limit applicable to the majority of the boardwalk properties prevail, or should the 28-foot height limit for walk streets be enforced? This is the first project proposed since the 2001 certification of the Venice LUP that is situated on the corner of a walk street and the boardwalk, so it is the first time that the City has had to consider which height limit would prevail on such a corner. If the 28-foot height limit were to be imposed because the project is along a walk street, then the applicant would not be able to take advantage of the 30-to-35-foot height limit that is applicable to its neighboring boardwalk properties. On the other hand, the LUP is clear: the height limit along walk streets is 28 feet (Exhibit #2).

After several public hearings, the City made the decision to amend the Venice Specific Plan (not the LUP) to state that projects *fronting* walk streets (instead of projects *along* walk streets) are limited to the more restrictive height limit of 28 feet. The City then approved the local coastal development permit and tract map for the proposed 35-foot high building (with a varied roofline), finding that it fronts the boardwalk and not the walk street.

The City's decision to not impose the 28-foot height limit on the proposed development (among other issues) was strongly opposed by several persons who participated at the local hearings for the project, and they appealed the City's local coastal development permit to the Commission.<sup>3</sup> On February 18, 2004, the Commission determined that a Substantial Issue exists with the proposed project's land use,

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<sup>3</sup> See Commission Appeal File Nos. A5-VEN-04-008 & 009, filed by Coastal Commission Executive Director Peter Douglas, Joyce Haskell, Hortense Breitman and Steve Schlein (See also Exhibits #8-12).

setbacks, design, displacement of parking, and height [See staff report for Appeal Nos. A5-VEN-04-008 & A5-VEN-04-009, dated 1/29/2004]. The current action pending before the Commission is the de novo hearing for the appeal, plus the dual permit application that is necessary because the City of Los Angeles does not issue local coastal development permits pursuant to a certified Local Coastal Program (LCP). In order to minimize duplication, Commission staff has combined the de novo appeal permit and dual coastal development permit application into a single staff report and one combined Commission hearing (See Staff Note on Page Two).

Although the standard of review for the proposed development is the Chapter 3 policies of the Coastal Act, the Commission-certified LUP for Venice now provides specific guidance for the Commission's interpretation of the relevant Chapter 3 policies. A coastal development permit is approved only if the proposed development is found to be consistent with the Coastal Act.

Another procedural issue involves the City's approval of the Tract Map for the proposed condominium subdivision and the subsequent appeals of the Tract Map approval. The final City approval for the Tract Map occurred separately from the City's approval of the local coastal development. The City Attorney opined that the Planning Commission's approval of the local coastal development permit could only be appealed to the Coastal Commission, while the Planning Commission's approval of the Tract Map was appealed to City Council. This raises the question of whether the Tract Map has received the necessary City approval pursuant to the requirements of the Coastal Act. This question, however, is moot as a result of the appeal of the local coastal development permit to the Commission and the Commission's finding of Substantial Issue. The Commission's finding of Substantial Issue voided the locally issued coastal development permit. If the Commission approves the de novo coastal development permit application, its action would conditionally approve both the Tract Map and the physical development being proposed by the applicant. The dual coastal development permit application also includes the proposed Tract Map for the proposed condominium subdivision.

### **C. Land Use**

Section 30222 of the Coastal Act requires that visitor serving commercial uses be given priority over residential and other non-priority land uses such as residences.

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The paved project site, including part of the Thornton Avenue right-of-way, is currently being used by the applicant as a commercial parking lot that serves visitors to the area as well as local residents. Vendors, operating out of tents and vans, are also leasing and using the portion of the site nearest the boardwalk to sell their wares. The County-maintained public beach is located west of the site on the seaward side of the boardwalk (Exhibit #3).

The project site designated as "Community Commercial" by the certified City of Los Angeles Land Use Plan (LUP) for Venice. The Community Commercial land use designation calls for a mix of residential dwelling units and visitor-serving commercial uses and services, with the commercial uses on the ground floor and the residential uses above.

Policy I.B.6 of the certified Venice LUP states:

• **Policy I. B. 6. Community Commercial Land Use.** *The areas designated as Community Commercial on the Land Use Policy Map (Exhibits 9 through 12) will accommodate the development of community-serving commercial uses and services, with a mix of residential dwelling units and visitor-serving uses. The Community Commercial designation is intended to provide focal points for local shopping, civic and social activities and for visitor-serving commercial uses. They differ from Neighborhood Commercial areas in their size and intensity of business and social activities. The existing community centers in Venice are most consistent with, and should be developed as, mixed-use centers that encourage the development of housing in concert with multi-use commercial uses. The integration and mixing of uses will increase opportunities for employees to live near jobs and residents to live near shopping. Overnight visitor-serving uses, such as hotels and youth hostels, are preferred uses in the Community Commercial land use category.*

Uses/Density: *Community commercial uses shall accommodate neighborhood and visitor-serving commercial and personal service uses, emphasizing retail and restaurants; and mixed residential/commercial use with retail on the ground floor and personal services and residential uses on upper floors. Drive-thru facilities and billboards shall be prohibited in the Community Commercial land use category. On a commercial lot, residential uses shall not exceed one unit per 800-1200 square feet of lot area.*

#### **Community Commercial Areas of Special Interest**

**c. North Venice Community Commercial.** *Properties located along Ocean Front Walk from 17th Avenue to the Santa Monica City Line (LUP Exhibit 10).*

Uses: *Visitor-serving and personal services emphasizing retail and restaurants. Mixed-use with retail and/ or personal services on the ground floor with either residential or personal services on upper floors.*

The proposed project includes four live/work residential units and 900 square feet of commercial retail space on the 12,803 square foot project site. The proposed commercial retail space on the ground floor, which is critical to the approval of the project, faces the boardwalk (Exhibit #5). Without the proposed commercial retail uses facing the boardwalk, the project would be a residential project and would not conform to the land use designation for the site. The surplus parking provided by the proposed project would also provide coastal visitors with parking opportunities.

The proposed retail and parking uses are visitor-serving commercial uses that enhance public opportunities for coastal recreation and are given priority over other land uses by Section 30222 of the Coastal Act. Therefore, the proposed project is consistent with Section 30222 of the Coastal Act because it would provide additional visitor-serving commercial uses on the site. The proposed project is also consistent with the land use designation for the site set forth by the certified Venice LUP as residential uses are allowed on the upper floors while commercial uses are required on the ground floor. The proposed residential density is also consistent with the LUP standard of one unit per 800-1200 square feet of lot area.

In order to ensure that the project provides the proposed mix of retail commercial, residential and parking uses that the certified LUP requires, Special Condition One specifically lists the uses that are being permitted by this action. Any proposed change in use, change in commercial floor area, change in number of residential units, change in number of parking stalls, use of the parking to satisfy the parking requirements of new development or future commercial intensification, or any other deviation from the approved development, shall be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. Only as conditioned does the Commission find that the proposed project conforms with Section 30222 of the Coastal Act and the land use designation set forth by the certified Venice LUP.

**D. Visual Resources and Community Character – Thornton Avenue Walk Street**

The Coastal Act requires that the scenic and visual qualities of coastal areas shall be considered and protected, and that special neighborhoods be protected.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas....

Section 30253(5) of the Coastal Act states:

New development shall: (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Building height and bulk can adversely affect the scenic and visual qualities of the Venice coastal area and the unique character of its historic walk streets. Architectural design and the provision, or lack thereof, of adequate open space and landscaping can also strongly influence community character and visual resources. The certified Venice LUP contains specific building limits and design standards that have been designed and adopted in order to preserve the unique character of the Venice walk streets and neighborhoods and to carry out the requirements of Sections 30251 and 30253 of the Coastal Act.

Policy II.C.7 of the certified Venice LUP states:

- **Policy II. C. 7. Walk Streets.** *Designated walk streets shall be preserved and maintained at their present widths for public pedestrian access to the shoreline and other areas of interest and to preserve views along and from the public right-of-way. Vehicular access on walk streets shall be restricted to emergency vehicles. The minimum width of the pedestrian path shall be 10-12 feet in the North Venice and Peninsula areas and 4½ feet in the Milwood area. The remaining public right-of-way shall be limited to grade level uses including landscaping, patios, gardens and decks.*

As stated previously, the project site abuts Thornton Avenue, a forty-foot wide City right-of-way designated as a walk street by the certified Venice LUP (Exhibit #3). The walk streets in North Venice, Marina Peninsula and Milwood neighborhoods of Venice are among the most pleasant pedestrian amenities in Los Angeles and provide excellent vertical access to the beach. The certified Venice LUP identifies the North Venice walk streets as protected coastal accessways for pedestrians. Vehicular access on walk streets is restricted to emergency vehicles.

The Venice walk streets are generally typical of a number of southern California beach communities that were originally developed with weekend beach cottages early in the twentieth century when streetcars served these communities. Walk streets generally have narrow, pedestrian friendly walkways down the middle of the right-of-way, with landscaped “front yards” that encroach up over the right-of-way up to the edge of the open public walkway in the middle of the right-of-way. On the block inland of the project site, this walk street (Thornton Avenue) includes the typical landscaped “front yards” that encroach into the street right of way. A ten-foot wide public sidewalk runs down the center of the walk street, providing pedestrian access between the inland area where some public parking is available and the boardwalk and the sandy beach (Exhibit #2).

## **Building Height**

One of the substantial issues raised by the appeal is that the proposed building is too tall at 35 feet above the elevation of Ocean Front Walk (Exhibits #7-11). The certified Venice LUP contains specific policies to carry out the requirements of the Coastal Act, especially along walk streets including Thornton Avenue. The Venice LUP limits the height of buildings as a way of protecting public access, community character and the visual resources of the beach, boardwalk and walk streets. The proposed 35-foot high building does not conform to the 28-foot height limit for development along walk streets in the North Venice area as set forth in the certified Venice LUP (Exhibit #2).

The Commission, however, recognizes that the standard of review is the Chapter 3 policies of the Coastal Act; the LUP only provides guidance and is not the final standard for approval. When the City granted its approval of the project, it imposed the general North Venice height limit (30-to-35 feet) on the project rather than the more restrictive walk street height limit. The City found that the proposed project fronts the boardwalk, and the height limit for all projects fronting the boardwalk would be 30-to-35 feet (Exhibit #3). Also, the existing buildings situated immediately inland of the proposed project along the Thornton Avenue walk street exceed a height of 28 feet, with the historic 16 Thornton Avenue apartment building reaching approximately fifty feet in height (Exhibit #8, p.3). Most of the buildings along Thornton Avenue are older two-story structures with high peaked roofs. The existing three-story boardwalk-fronting building northwest of the site is 30-to-35 feet in height. Therefore, the 35-foot height of the proposed project would be consistent with the heights of the buildings on two out of three sides of the project (one side faces the beach with no buildings).

The Commission can approve development that exceeds the LUP height limit and approve the proposed project only if it finds that it is consistent with the Chapter 3 policies of the Coastal Act. In this case, the Commission finds that the proposed project, because of the reasons listed below, is consistent with the Chapter 3 policies of the Coastal Act. The proposed project would not negatively affect the character and scenic and visual qualities of the community, even though the proposed structure exceeds the certified LUP height limit for projects along walk streets.

The Commission finds that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act because, as conditioned, the proposed project would have no adverse effect on public views down the walk street to the beach and ocean, as the additional height above 28 feet would not obstruct any public view of the coast. The proposed structure, which is thirty feet in height along the Thornton Avenue frontage, is visually compatible with the character of the surrounding neighborhood and the walk street where many of the nearest buildings are thirty feet high or higher. Therefore, the proposed project would not set a new precedent for the street as several buildings along Thornton Avenue now do exceed 28 feet in height. It is also visually compatible with the buildings along the boardwalk, many of which are thirty to 35 feet in height. The proposed project does not threaten the unique character of the neighborhood because it would replace a paved parking lot with a building that is comparable in height and bulk to the surrounding older structures, and it also conforms to the general 30-to-35-foot height limit. Finally, the proposed project, as conditioned, would result in the substantial improvement of the walk street's visual resources by providing a landscaped yard and softly textured transitional zone between the public sidewalk and the proposed structure.

In order to ensure that the proposed project is constructed consistent with the plan and design that is being presented and approved by the Commission, special conditions are imposed that require strict compliance with the proposal as set forth in the application, and as modified by the conditions of approval. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required. As conditioned, the proposed project is found to be consistent with Sections 30251 and 30253 of the Coastal Act.

### **Walk Street Setback Requirement**

Another of the substantial issues raised by the appeal is that the proposed building was not set back far enough from the Thornton Avenue right-of-way (Exhibits #8-11). The Commission found that the City-approved setback distance of 7'8" might not have been adequate to protect public views of the shoreline as required by the Venice LUP and Section 30251 of the Coastal Act. The Venice LUP does not set forth any specific setback distance for projects along walk streets, but the LUP does require that:

*"Yards shall be required in order to accommodate the need for fire safety, open space, permeable land area for on-site percolation of stormwater, and on-site recreation consistent with the existing scale and character of the neighborhood." [Residential Land Use and Development Standards, LUP Page 2-22].*

The appellants' assertion that the proposed project's setback is about six feet less (22'8" vs. 29' from the sidewalk) than the rest of the development on the block contradicts the setback analysis provided by the applicant (Exhibit #11). The applicant's setback diagram for existing development along Thornton Avenue shows current setbacks of 22-to-27 feet from the sidewalk, and the proposed building (except for second floor balconies) would be set back 22'8" (Exhibit #8, p3). The setback diagram shows that the first building inland of the project site, 16 Thornton Avenue, is set back only 21'6" from the sidewalk. Therefore, the Commission finds that a 7'8" setback from the Thornton Avenue right-of-way (22'8" from the sidewalk) is consistent with the existing residential setbacks along Thornton Avenue and would have no adverse effect on public views down the walk street to the beach and ocean, as shown on applicant's setback diagram as well as on the project renderings provided by the applicant (on file dated 3/24/2004).

The proposed second floor balconies that extend into the setback area, however, would intrude into the public's view and must be set back at least 7'8". The applicant's proposed building face setback would provide a 55-foot wide view corridor down Thornton Avenue, which would allow a clear view along the walk street, obstructed only by landscaping (e.g. bushes and trees), which allow penetration of light and are a softening effect on the houses that line the walk street. The landscaping is also inherently temporary. The proposed second floor balconies, however, extend into the setback area and the public's visual field at or above eye level, thus increasing the apparent bulk of the structure. The irregularity of the façade required by the City could be equally achieved by recessing the balconies into a bay of an equivalent size, while keeping all building extensions out of the 7'8" setback area.

Therefore, Special Condition Two requires that, in order to maintain an open and visible access corridor and to enhance visual quality, revised project plans shall be submitted showing that all balconies and other portions of the structure (except for ground level decks and porches that do not exceed 18 inches in height above the elevation of the walk street sidewalk) shall be set back at least seven feet and eight inches (7'8") from the Thornton Avenue right-of-way. No balconies or other building extensions over 18 inches in height shall encroach into the 7'8" Thornton Avenue setback area. Only as conditioned does the Commission find the proposed project to be consistent with Sections 30251 and 30253 of the Coastal Act.

### **Walk Street Design Standards**

As stated previously, the certified Venice LUP contains specific building design standards that have been designed and adopted in order to preserve the unique character of the Venice walk streets.

Policies II.C.10 and II.C.11 of the certified Venice LUP state:

• **Policy II. C. 10. Walk Streets -- Residential Development Standards.** *New residential development along walk streets shall enhance both public access and neighborhood character. Building materials, colors, massing and scale of new structures shall complement those of existing structures in the neighborhood. Building facades shall be varied and articulated to provide visual interest to pedestrians. Primary ground floor residential building entrances and frequent windows shall face the walk streets. Front porches, bays, and balconies shall be encouraged. In case of duplexes and low density multiple-family buildings, entries shall be located in the exterior building facade for each residential unit, shall face walk streets, and be well-defined and separate.*

• **Policy II. C. 11. Encroachments into Walk Street Right-of-Way.** *Encroachments into City right-of-way shall be limited to grade level uses including gardens, patios, landscaping, ground level decks and fences. The gardens/patios in the right-of-way, between the fences and the buildings, shall be permitted to provide a transitional zone between the public pathways and private dwellings. To create a defensible space, the planting along the walk streets shall not impede the view of walkways by the residents and the view of the gardens by the pedestrian. Creative use and arrangement of permeable paving materials shall be encouraged. Any fence, wall or hedge erected in the public right-of-way shall not exceed 42 inches in height as measured from the existing grade of the public right-of-way. The use of decorative fence patterns such as split rail, picket and rustic is encouraged. New fences shall be located in line with existing fences on the same side of the street.*

A City Tract Map requirement conflicts with the above-stated requirements of the certified Venice LUP to preserve the unique character of the Venice walk streets by requiring the applicant to pave a twenty-foot wide emergency vehicle access down the center of the right-of-way (instead of the ten-foot wide pedestrian-only sidewalk) for fire truck access to the proposed 35-foot high building (Tract Map Condition S-3(i)b). In past cases, this City requirement has resulted in the conversion of the narrow walk street sidewalks to wide open areas where residents often park their private vehicles, sometimes even posting "Private Parking" signs along the public right-of-way. This City requirement works against LUP Policy II.C.11 to protect and preserve the unique character of the Venice walk streets. If the walk street must be paved and widened for emergency access, then the City should consider an alternate plan that would also provide additional public parking on the right-of-way.

In order to enhance visual quality and to provide a transitional zone between the Thornton Avenue public sidewalk and the private dwellings, the area situated between a ten-foot wide Thornton Avenue sidewalk and the permittee's property line (i.e., within the Thornton Avenue right-of-way) shall be maintained as a permeable landscaped yard area (except for minimal paved walks to the building entrances) and enclosed within a 42-inch high decorative fence (e.g. split rail, picket or rustic).

Also, since Special Condition Two requires the applicant to submit revised project plans to provide the necessary setback from Thornton Avenue, the plans must be redrawn in a manner that protects and enhances community character and visual resources as required by Sections 30251 and 30253 of the Coastal Act and the Venice LUP. In order to enhance visual quality and community character, Special Condition Two requires that the side of the building facing the Thornton Avenue walk street shall be designed and constructed with a varied and articulated façade that provides visual interest to pedestrians. The proposed project plans do this now, but the proposed second floor balconies must comply with the necessary setback. Frequent windows and the primary ground floor entrances for the residential units shall face the walk street. Porches, bays and balconies are encouraged. As conditioned, the proposed project would result in the substantial improvement of the walk street's visual resources in conformance with the certified Venice LUP and Sections 30251 and 30253 of the Coastal Act.

## **E. Visual Resources – Ocean Front Walk**

In addition to protecting the visual resources and unique character of the Thornton Avenue walk street, the proposed project is also required to protect the visual resources and unique character of the boardwalk (Ocean Front Walk). In order to protect the visual resources and unique character of the boardwalk, the certified Venice LUP restricts the types and locations of business identification signs.

Policies I.D.4 and V.A.5 of the certified Venice LUP state:

- **Policy I. D. 4. Signs.** *Roof top signs and billboards are prohibited in all land use categories. Business identification signs shall comply with the height limits and development standards specified in the LUP to ensure they do not adversely affect view sheds and view corridors.*
- **Policy V. A. 5. Streetscapes.** *Streetscape improvements throughout the Venice Coastal Zone shall be maintained and enhanced to enhance pedestrian activity and contribute to a high quality of life and visual image for residents and visitors.*

Special Condition Five limits signs on the approved structure to twenty square feet in area, and states that there shall be no more than one sign larger than ten square feet in area for each commercial establishment in the building. In addition, no sign shall exceed the height of the nearest roofline, and no sign shall rotate or flash. Therefore, as conditioned, the proposed project conforms with the certified Venice LUP and Sections 30251 and 30253 of the Coastal Act.

#### **F. Public Access and Recreation**

The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities be provided and that development shall not interfere with public access. The certified Venice LUP protects public access along the historic Venice walk streets and the Venice boardwalk. Therefore, the proposed development be designed to avoid any new adverse impacts on public access to the coast or to nearby recreational facilities.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Certified LUP Policy II.C.7, stated in the previous section of this report, states in part:

*Designated walk streets shall be preserved and maintained at their present widths for public pedestrian access to the shoreline and other areas of interest and to preserve views along and from the public right-of-way.*

Certified LUP Policy II.C.10 states in part:

*New residential development along walk streets shall enhance both public access and neighborhood character.*

Shoreline recreation resources in the Venice area include: Venice Beach, Ballona Lagoon, the Venice Canals, walk streets, and the Marina del Rey north jetty which lies partly in the jurisdiction of the City of Los Angeles. Venice Beach is a publicly owned sandy beach, which provides direct access to the entire oceanfront shoreline and is readily accessible to pedestrians and bicyclists. The walk streets in the North Venice and Marina Peninsula neighborhoods provide excellent pedestrian access to the beach. It is a goal of the Coastal Commission and the City to protect these public resources. Unregulated development along walk streets could cause an over developed, crowded feel that may discourage public use and enjoyment of these pedestrian accessways. Discouraging public access is inconsistent with the certified LUP and the public access policies of the Coastal Act.

As conditioned, the proposed project would not adversely impact public access. The special conditions protect public access along the ten-foot wide public sidewalk on the Thornton Avenue right-of-way (Special Condition 2.d) and prohibit encroachments on the boardwalk (Special Condition Four). Also, the proposed project, as conditioned, would enhance public access on the walk street by providing a landscaped transitional zone between the Thornton Avenue public sidewalk and the private dwellings. Therefore, as conditioned, the proposed development conforms with the public access and recreation policies of the Coastal Act.

#### **G. Public Access - Parking**

The proposed project is located in North Venice, only a few feet inland of the popular Venice Beach and boardwalk (Exhibit #3). One of the most important coastal planning issues for this part of Venice is the issue of parking and the lack thereof. New developments must provide an adequate parking supply in order to protect the existing public parking facilities that support public access to the many recreational opportunities available at this highly popular coastal area.

This neighborhood has a severe parking shortage, partly because many of the residences were built in several decades ago when there was less demand for parking (there were fewer residents and cars, and the area was served by the Pacific Railway red cars) and there were no requirements to provide adequate on-site parking. Also, the North Venice walk streets and alleys provide little or no public parking, and the public beach parking lots are expensive to use on a regular basis, and they are closed at night. The restaurants, cafes and shops that line the boardwalk (Ocean Front Walk) often have little or no on-site parking to serve their employees and customers. Consequently, there is a severe shortage of available parking spaces in the area when the demand for parking peaks. Visitors and users of the various commercial, residential and recreational uses in the area must compete for the limited number of available parking spaces in the area. This situation has negatively impacted the availability of public access to the coast during peak-use periods.

The project site is currently being used as pay parking lot with about forty spaces for beach goers, customers of commercial uses and local residents. The permanent loss of this local parking supply could have adverse impacts on coastal access. At a minimum, during construction, all users of the site will have to find another place to park their vehicles. The daily beach goers and other daytime parkers will have access to the public beach parking lots which rarely fill to capacity, so there will be only a minimal effect on beach access by the displacement of the existing private parking supply. Also, the

displacement of the parking would not be permanent, since the proposed project includes the provision of surplus parking that could be leased to visitors and residents.

The local residents who depend on the site for nighttime parking will face a difficult challenge in finding a new place to park. One appellant (Steve Schlein) has requested that the City provide 24-hour preferential parking along Pacific Avenue just for the people who are currently leasing parking on the project site (Exhibit #10). Finding additional on-street parking that would help to mitigate the loss of the parking supply is consistent with the policies of the certified LUP, but is something that the City has not found to be feasible on Pacific Avenue. If the City is ever able to find new on-street parking spaces, the certified LUP policy calls for such spaces to be available to both visitors and residents. Preferential parking on the public streets would discriminate against visitors.

Certified LUP Policy II.A.1 states:

- **Policy II. A. 1. General.** *It is the policy of the City to provide increased parking opportunities for both visitors and residents of Venice, and improve summer weekend conditions with respect to Venice Beach parking and traffic control.*

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30252 of the Coastal Act requires that new development provide (among other things) adequate parking facilities. The Commission has consistently required that new development provide adequate parking facilities to meet the demands of the new development, but has not required that the new development also provide replacement parking to mitigate the loss of parking that often occurs with the development of vacant lots that were being used for parking on an interim or even long-term basis. Also, the local government is not responsible for providing local residents with a private parking facility in the event that their current facility is closed, notwithstanding the fact that many of the residences in the area were not required by the local government to provide on-site parking when they were constructed in the early or mid-1900s. That being said, it would certainly be beneficial to many citizens, including beach goers, if the City was able to increase the number of public parking spaces in North Venice as called for by the certified LUP.

### **Project Parking Demand**

The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. In order to conform to the requirements of the Coastal Act, the proposed project is required to provide adequate parking facilities. The amount of parking that is "adequate" is determined by calculating the parking demand of a specific project using a parking standard. The parking standard is typically part of a certified local coastal program or zoning ordinance. The Commission, on June 14, 2001, certified the Venice Land Use Plan (LUP) which contains specific policies to carryout the requirements of the Coastal Act. The certified Venice LUP

requires that new development, including additions to existing structures, shall provide the necessary additional parking spaces as required by the LUP Parking Requirement Table.

Policy II.A.3 of the certified LUP states:

**Policy II. A. 3. Parking Requirements.** *The parking requirements outlined in the following table shall apply to all new development, any addition and/or change of use. The public beach parking lots and the Venice Boulevard median parking lots shall not be used to satisfy the parking requirements of this policy. Extensive remodeling of an existing use or change of use which does not conform to the parking requirements listed in the table shall be required to provide missing numbers of parking spaces or provide an in-lieu fee payment into the Venice Coastal Parking Impact Trust Fund for the existing deficiency. The Venice Coastal Parking Impact Trust Fund will be utilized for improvement and development of public parking facilities that improve public access to the Venice Coastal Zone.*

The certified LUP parking table, contained within LUP Policy II.A.3, sets forth the parking requirements for residential and retail as follows:<sup>4</sup>

Multiple Dwelling:	2 spaces per dwelling unit; plus 1 guest space per four or fewer units.
General Retail	1 space for each 225 square feet of floor area.

Also, the proposed project is located within the Beach Impact Zone (BIZ) of the Venice area as defined in the certified Venice LUP. The BIZ parking requirements apply to new developments in the BIZ area, and are in addition to the standard parking requirements. The parking spaces generated by the BIZ parking requirements help offset the cumulative impacts on public access opportunities caused by the intensification of commercial enterprises in the Venice area. In this case, the BIZ parking requirement for the proposed project would be one additional space (one per 640 square feet of ground floor retail area).

Using the current parking standards set forth by the certified Venice LUP, the proposed project is required to provide 15 on-site parking spaces, as follows:

Six Residences:	10 spaces plus two spaces for guests of the residents.
Commercial Retail:	4 spaces (900/225=4)
BIZ Parking	1 space.

### **Proposed Parking Plan**

The applicant's proposed plans for the two-level garage would provide 37 on-site parking spaces, well in excess of the required amount. The permittee may rent or lease the surplus spaces for public or private use, however, use of the on-site parking to satisfy the parking requirements of new development or future commercial intensification shall not occur unless authorized by a coastal development permit or amendment to this permit, unless the Executive Director determines that no permit or amendment is required.

In one related case, the permittee for the five hundred square feet of retail space on the adjacent site (615 Ocean Front Walk) is currently required by Coastal Development Permit 5-93-332 (Sands) to lease three off-site parking spaces from the project site in order to operate. Therefore, the lease of three parking spaces (by the permittee for 5-93-332) within the proposed project's garage is hereby

<sup>4</sup> The parking standards in the certified Venice LUP are identical to the parking standard contained in the Commission's Regional Interpretive Guidelines for Los Angeles County, adopted 1980.

authorized without any additional Commission action, though the applicant for this permit is not obligated to provide such parking. A search of Commission records turned up no other encumbered parking spaces or parking requirements for the project site.

Special Condition Three requires the applicant to provide a final parking plan that identifies the location of the required parking spaces within the proposed two-level parking garage. The parking plan shall also include signage that reserves the residential spaces for the occupants of the residential units and their guests, and reserves the commercial parking spaces for the customers and employees of the retail uses. The BIZ parking space is to be provided for the general public. Parking fees may be charged. As conditioned, the proposed project is consistent with the public access policies of the Coastal Act.

#### **H. Marine Resources**

The proposed development will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

#### **I. Speedway Alley Setback**

The appeal by Hortense Breitman raises safety issues about the use of the twenty-foot wide Speedway Alley for access to the proposed project (Exhibit #9). She is concerned that the width of the alley is too narrow and requests that the Commission impose a ten-foot structural setback on the project in order to provide adequate space for cars to pass when delivery trucks are left parked along the side of the alley. The proposed project provides a 0-to-1 foot setback from the alley property line (Exhibit #4). In this case, the Commission does not recognize an adequate nexus to require a greater set back from the alley as the proposed setback from the alley would not conflict with any Coastal Act policy. The City Tract Map does require the permittee to improve the alley along the site's frontage.

#### **J. Environmentally Sensitive habitat Areas (ESHA)**

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

#### **K. Deed Restriction**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

#### **L. Local Coastal Program**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act:

(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. As conditioned the proposed development is consistent with Chapter 3 of the Coastal Act.

The proposed project does not conform to the 28-foot height limit for projects along walk streets as set forth in the certified Venice LUP. Nonetheless, approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act because the exception to the height limit in this case is for a specific and unique circumstance: it is a boardwalk fronting project that will not adversely affect public views or community character.

#### **M. California Environmental Quality Act (CEQA)**

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.